

AMENDMENT TO H.R. 695  
OFFERED BY Tauzin

Bill no.: H.R.C.	<u>HR 695</u>
Amendment no.:	<u>1b</u>
Date offered:	<u>9/24/97</u>
Disposition:	<u>adopted,</u> <u>Voice vote</u>

[encryption in interstate & foreign commerce]

(Page & line nos. refer to Committee Print of 9/9/97)

Page 10, after line 24, insert the following new section (and redesignate the succeeding section accordingly):

1 SEC. 4. TREATMENT OF ENCRYPTION IN INTERSTATE AND  
2 FOREIGN COMMERCE.

3 (a) INQUIRY REGARDING IMPEDIMENTS TO  
4 TRADE.—Within 180 days after the date of the enactment  
5 of this Act, the Secretary of Commerce shall complete an  
6 inquiry to—

7 (1) identify any domestic and foreign impediments to trade in encryption products and services  
8 and the manners in which and extent to which such  
9 impediments inhibit the development of interstate  
10 and foreign commerce; and

11 (2) identify import restrictions imposed by foreign nations that constitute unfair trade barriers to  
12 providers of encryption products or services.

13 The Secretary shall submit a report to the Congress regarding the results of such inquiry by such date.

14 (b) REMOVAL OF TRADE BARRIERS.—Within 1 year  
15 after such date of enactment, the Secretary of Commerce,

1 in consultation with the Attorney General, shall prescribe  
2 such regulations as may be necessary to reduce the im-  
3 pediments to trade in encryption products and services  
4 identified in the inquiry pursuant to subsection (a) for the  
5 purpose of facilitating the development of interstate and  
6 foreign commerce. Such regulations shall be designed to—

7 (1) promote the sale and distribution in foreign  
8 commerce of encryption products and services manu-  
9 factured in the United States; and

10 (2) strengthen the competitiveness of domestic  
11 providers of encryption products and services in for-  
12 eign commerce.

13 (c) INTERNATIONAL AGREEMENTS.—

14 (1) REPORT TO PRESIDENT.—Upon the comple-  
15 tion of the inquiry under subsection (a), the Sec-  
16 retary of Commerce shall submit a report to the  
17 President regarding reducing any impediments to  
18 trade in encryption products and services that are  
19 identified by the inquiry and could, in the deter-  
20 mination of the Secretary, require international ne-  
21 gotiations for such reduction.

22 (2) NEGOTIATIONS.—The President shall take  
23 all actions necessary to conduct negotiations with  
24 other countries for the purposes of (A) concluding  
25 international agreements on the promotion of

1 encryption products and services, and (B) achieving  
2 mutual recognition of countries' export controls, in  
3 order to meet the needs of countries to preserve na-  
4 tional security, safeguard privacy, and prevent com-  
5 mercial espionage. The President may consider a  
6 country's refusal to negotiate such international ex-  
7 port and mutual recognition agreements when con-  
8 sidering the participation of the United States in  
9 any cooperation or assistance program with that  
10 country. The President shall submit a report to the  
11 Congress regarding the status of international ef-  
12 forts regarding cryptography not later than Decem-  
13 ber 31, 2000.

14 (d) DEFINITIONS.—For purposes of this section, the  
15 following definitions shall apply:

16 (1) COMMUNICATION.—The term “communica-  
17 tion” includes wire communication and electronic  
18 communication.

19 (2) DECRYPT; DECRYPTION.—The terms  
20 “decrypt” and “decryption” refer to the electronic  
21 retransformation of communications or electronically  
22 stored information that has been encrypted into the  
23 original form of the communication or information.

24 (3) ELECTRONIC COMMUNICATION.—The term  
25 “electronic communication” has the meaning given

1       such term in section 2510 of title 18, United States  
2       Code.

3           (4)   ENCRYPT;   ENCRYPTION.—The   terms  
4       “encrypt” and “encryption” have the meanings  
5       given such terms in section 2801 of title 18, United  
6       States Code (as added by section 2 of this Act).

7           (5)   ENCRYPTION   PRODUCT.—The   term  
8       “encryption product” means any product, software,  
9       or technology that can be used to encrypt and  
10      decrypt communications or electronic information  
11      and any product, software, or technology with  
12      encryption capabilities;

13          (6)   WIRE COMMUNICATION.—The term “wire  
14      communication” has the meaning given such term in  
15      section 3 of the Communications Act of 1934 (47  
16      U.S.C. 153).